



DEPARTMENT OF VETERANS AFFAIRS

Office of Inspector General
Office of Investigations
Washington DC 20420

REPORT OF INTERNAL INVESTIGATION

(b) (7)(C)
(b) (7)(C)

August 18, 2016
File #: 51X-2016-010

Department of Veterans Affairs (VA)
Office of Inspector General (OIG)

(b) (7)(C)

801 I Street NW, Washington, D.C. 20001

(b) (7)(C)
Status: Complete

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Sexual Harassment and Improper Conduct

SYNOPSIS:

On June 22, 2016, Assistant Inspector General for Investigations (AIGI) Quentin Aucoin obtained authorization from Inspector General (IG) Michael Missal to initiate this investigation based upon information provided by retired (b) (7)(C)

(b) (7)(C) (b) (7)(C) alleged that on (b) (7)(C) 2014, (b) (7)(C) was intoxicated at an afterhours gathering of co-workers and had inappropriate contact with a subordinate (b) (7)(C) employee, (b) (7)(C)

Several witnesses described (b) (7)(C) as intoxicated and embracing (b) (7)(C) but none supported the allegation that she was sexually harassed or the victim of unwelcome touching. Further, (b) (7)(C) the alleged victim, denied any inappropriate conduct by (b) (7)(C)

The investigation revealed that (b) (7)(C) used poor judgement by becoming intoxicated in the presence of his subordinates, but there was no evidence to support sexual harassment or inappropriate contact with (b) (7)(C)

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STANDARDS:

OIG GM Directive 329, Reporting and Handling Allegations of Misconduct Against Office of Inspector General Employees: This directive establishes a requirement for employees and managers to report allegations of misconduct and assigns responsibility to the OI, Analysis and Oversight Division (51X), to conduct investigations when warranted.

Source: OIG GM Directive 329, Reporting and Handling Allegations of Misconduct Against Office of Inspector General Employees retrieved from the VA OIG Portal on February 11, 2014 - www.portal.oig.va.gov/directives/Forms/OIG%20Directives.aspx

Title 5 Code of Federal Regulations 735.203: Conduct Prejudicial to the Government: "An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government."

Source: Government Printing Office retrieved from the World Wide Web on February 11, 2014 - <http://www.gpo.gov/fdsys/pkg/CFR-2008-title5-vol2/pdf/CFR-2008-title5-vol2-sec735-203.pdf>

Title VII of the Civil Rights Act of 1964: Sexual Harassment: Title VII applies to employers with 15 or more employees. Sexual harassment can be unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that explicitly or implicitly affects an individual's employment. These acts can also rise to the level of sexual harassment when they unreasonably interfere with an individual's work performance or create a hostile or offensive work environment.

Source: Workplace Fairness, retrieved from the World Wide Web July 18, 2016 - <http://www.workplacefairness.org/sexual-harassment-legal-rights>

BACKGROUND:

(b) (7)(C) is the (b) (7)(C) (b) (7)(C) supervisor. (b) (7)(C) was previously assigned to (b) (7)(C) and was promoted to his current position on (b) (7)(C). On June 29, 2016, Special Agent in Charge (SAC) (b) (7)(C) and I interviewed (b) (7)(C) at VA OIG Headquarters, 801 I Street, NW, Washington, DC. (b) (7)(C) was placed under oath for the recorded interview which was transcribed (Attachment A).

(b) (7)(C) is a retired (b) (7)(C) who was assigned to the (b) (7)(C) office, for 9 years before he retired on (b) (7)(C). On June 23, 2016, ASAC (b) (7)(C) and I

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interviewed (b) (7)(C) via telephone. (b) (7)(C) was placed under oath for the recorded interview which was transcribed **(Attachment B)**.

(b) (7)(C) is the (b) (7)(C) GS-14, (b) (7)(C) who was hired at the (b) (7)(C) office on (b) (7) 2014. On June 23, 2016, ASAC (b) (7)(C) and I interviewed (b) (7)(C) via telephone. (b) (7)(C) was placed under oath for the recorded interview which was transcribed **(Attachment C)**.

(b) (7)(C) was hired at the (b) (7)(C) office on (b) (7) 2014. On June 29, 2016, ASAC (b) (7)(C) and I interviewed (b) (7)(C) at the Washington office located at 1722 I Street, N.W., Suite 60, Washington, DC. (b) (7)(C) was placed under oath for the recorded interview which was transcribed **(Attachment D)**.

(b) (7)(C) was hired at the (b) (7)(C) office on (b) (7) 2014. On June 28, 2016, ASAC (b) (7)(C) and I interviewed (b) (7)(C) via telephone. (b) (7)(C) was placed under oath for the recorded interview which was transcribed **(Attachment E)**.

(b) (7)(C) was hired at the (b) (7)(C) office on (b) (7) 2004. On June 28, 2016, ASAC (b) (7)(C) and I interviewed (b) (7)(C) via telephone. (b) (7)(C) was placed under oath for the recorded interview which was transcribed **(Attachment F)**.

(b) (7)(C) was hired at the (b) (7)(C) office (b) (7)(C) on (b) (7) 2010. On June 28, 2016, ASAC (b) (7)(C) and I interviewed (b) (7)(C) at VA OIG Headquarters, 801 I Street, NW, Washington, DC. (b) (7)(C) was placed under oath for the recorded interview which was transcribed **(Attachment G)**.

Jason Woodward has been the Deputy Assistant Inspector General (DAIG) for Management and Administration (MA) since his promotion on August 26, 2012. On June 29, 2016, (b) (7)(C) and I interviewed DAIG Woodward at VA OIG Headquarters, 801 I Street, NW, Washington, DC. DAIG Woodward was placed under oath for the recorded interview which was transcribed **(Attachment H)**.

The allegations raised in this investigation are centered on the behavior of (b) (7)(C) during an after-hours gathering of the (b) (7)(C) (b) (7)(C) 2014.

The (b) (7) Headquarters division is located at 801 I Street N.W., Washington, DC. Approximately (b) (7) positions are located in the field. In (b) (7)(C) 2014, the (b) (7)(C) (b) (7)(C) to assist with the (b) (7)(C). On the evening of (b) (7)(C) 2014, then-Inspector General (IG) Richard Griffin, Assistant Inspector General (AIG) (b) (7)(C), Deputy Assistant Inspector General (DAIG) for (b) (7)(C), and (b) (7)(C) met the (b) (7)(C).

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staff at a local restaurant/bar to (b) (7)(C). After socializing with the group for a short period of time, IG Griffin, AIG (b) (7)(C), and DAIG (b) (7)(C) departed. (b) (7)(C) remained to socialize with his subordinates and he consumed alcoholic drinks and food.

DETAILS OF INTERNAL INVESTIGATION:

According to (b) (7)(C) June 5, 2016, e-mail message to IG Missal, during an afterhours gathering, (b) (7)(C) became extremely intoxicated and started "groping and fondling" (b) (7)(C). (b) (7)(C) reported that he "observed and witnessed some very disturbing, inappropriate and unusual behavior like sexual harassment" by (b) (7)(C) (Attachment I).

On June 16, 2016, at the direction of IG Missal, Counselor to the IG (CIG) Roy Frederickson telephoned (b) (7)(C) and inquired about (b) (7)(C) allegations. CIG Frederickson memorialized the conversation in his June 16, 2016, Memorandum for the Record (Attachment J).

During his June 23, 2016, interview, (b) (7)(C) reiterated the allegations he had made to IG Missal and CIG Fredrickson and added that he witnessed (b) (7)(C) drink to the point of intoxication on a previous occasion in 2012 or 2013, but he did not witness any inappropriate conduct with female subordinates. (b) (7)(C) was upset with (b) (7)(C) behavior and drinking to the point of over intoxication in the presence of subordinate employees. (b) (7)(C) stated that he only observed (b) (7)(C) touch (b) (7)(C) around her waist.

(b) (7)(C) provided a compact disk (CD) that contained digital photographs and a video that he took with his cellular telephone during the evening of (b) (7)(C) 2014. (b) (7)(C) said the digital files were original, raw images and he had not edited them (Attachment K). He has no other images of the incident. (Agent Note: The photograph and video files are date stamped (b) (7)(C) 2014.)

(b) (7)(C) recalled the event and described it as a work-social event. It was the second time she had seen (b) (7)(C) since she was hired in (b) (7)(C) 2014. (b) (7)(C) said that (b) (7)(C) never touched her in an inappropriate, unwelcome manner or made any inappropriate comments during the event. (b) (7)(C) added that both she and (b) (7)(C) were intoxicated and were enjoying each other's company. (b) (7)(C) was provided with copies of the photographs and videos and she identified the subjects as herself and (b) (7)(C). As she reviewed the photos, (b) (7)(C) became agitated and stated:

"But it was nothing -- I, I -- whoever did this, if it was it, this was a set up. This was definitely a set up. This person, boy,

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Wow. They were really targeting whoever this guy is.”
[Page 25, Lines 12-19] (b) (7)(C) was referring to (b) (7)(C) as the target)

(b) (7)(C) also witnessed (b) (7)(C) and (b) (7)(C) in the restaurant on the evening of (b) (7)(C) 2014. She too was disturbed by (b) (7)(C) level of intoxication and the interaction between (b) (7)(C) and (b) (7)(C). (b) (7)(C) said at one point she pulled (b) (7)(C) aside and cautioned (b) (7)(C) about her behavior. (Agent Note: (b) (7)(C) denied being cautioned by (b) (7)(C). (b) (7)(C) said she never saw (b) (7)(C) try to move away from (b) (7)(C).

(b) (7)(C) and (b) (7)(C) said that at the conclusion of the gathering, they, along with (b) (7)(C) escorted (b) (7)(C) back to VA OIG Headquarters because he was intoxicated and they were concerned for his safety. Once (b) (7)(C) was inside the building, they went to their hotel.

Neither (b) (7)(C) nor (b) (7)(C) recalled any inappropriate behavior by (b) (7)(C). However, they both expressed concern that (b) (7)(C) interaction with (b) (7)(C) could have been interpreted as inappropriate fraternization.

(b) (7)(C) recalled the (b) (7)(C) 2014, gathering and stated that he did sit and talk with (b) (7)(C). He denied touching (b) (7)(C) in any manner that was unwelcome. He reviewed the photographs and videos and identified the subjects as (b) (7)(C) and himself. He admitted that he had been drinking and was intoxicated during the (b) (7)(C) 2014, event. (b) (7)(C) said that at the conclusion of the party he was intoxicated, but could not recall being intoxicated at any other gathering with (b) (7)(C) staff. (b) (7)(C) agreed that it was poor judgement for him to over indulge with subordinate staff.

DAIG Woodward recalled attending the (b) (7)(C) 2014, gathering. According to DAIG Woodward, he met with the group at a local restaurant to (b) (7)(C) staff. He remained at the gathering for a short period of time and never witnessed (b) (7)(C) behave inappropriately during that time. DAIG Woodward was asked if he made the following or similar statement to another OIG employee, "What's this I hear, I need to go down to the (b) (7)(C) office and flip his lights on and off and yell at him really loud." DAIG Woodward responded that he "could not recall making a statement like that" [Page 7, lines 17, 18]. DAIG Woodward further stated that he could not recall receiving any complaints about (b) (7)(C) behavior or inappropriate conduct.

On June 27 and 28, 2016, Suitability and Security Specialist (b) (7)(C), Analysis and Oversight Division, conducted routine background checks on (b) (7)(C) through the

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National Crime Information Center and state motor vehicle databases. No derogatory information was found (**Attachment L**).

Searches of e-mail messages were conducted using the Clearwell eDiscovery software tool for the following individuals:

(b) (7)(C)

No derogatory or pertinent information to the investigation was found (**Attachment M**).

FINDINGS:

This investigation determined that the allegation of sexual harassment and groping of (b) (7)(C) was unsubstantiated. (b) (7)(C) and several of the (b) (7)(C) staff attended an after-hours gathering at a local restaurant on (b) (7)(C) 2014, during which time he became intoxicated. (b) (7)(C) and (b) (7)(C) (b) (7)(C) photographed in what appeared to be compromising poses in close proximity to each other, but none of the witnesses testified that they observed (b) (7)(C) touch (b) (7)(C) in an inappropriate manner.

The alleged misconduct by (b) (7)(C) was not reported by (b) (7)(C) but by retired (b) (7)(C) 21 months after the incident. (b) (7)(C) testified that (b) (7)(C) behavior was not unwelcome and they "were having a good time" [Page 9, lines 20, 21].

(b) (7)(C) used poor judgement by allowing himself to become intoxicated while socializing with subordinate employees. He did not violate VA OIG policy nor did his behavior constitute conduct that was prejudicial to the Government.

Attachments:

- A. (b) (7) transcript
- B. (b) (7) transcript
- C. (b) (7)(C) transcript
- D. (b) transcript
- E. (b) (7) transcript
- F. (b) (7) transcript
- G. (b) (7)(C) transcript
- H. Woodward transcript
- I. June 5, 2016 e-mail from (b) (7)
- J. June 16, 2016 Memorandum from Fredrickson
- K. Compact disk with images from (b) (7)
- L. Documents from background check
- M. August 19, 2016 Memorandum for e-mail searches
- N. Compact discs with transcripts and audio files

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